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Remarks

Claims 1, 5, 13, 17, and 19 are pending but stand rejected. In view of the following remarks, the Applicant respectfully requests the Examiner's thoughtful reconsideration.

CLAIM REJECTIONS – 35 USC §112

The Examiner rejected Claims 1, 5, 13, 17, and 19 as being indefinite under 35 USC §112, second paragraph. Specifically, the Examiner objected to the phrase "an offset web" asserting that it is unclear with respect to what recited structural element the web is offset with.

The relevant inquiry under 35 USC §112, second paragraph is whether the claim language, as it would have been interpreted by one of ordinary skill in the art in light of the Applicant's specification and prior art, sets out and circumscribes a particular area with a reasonable degree of precision and particularity. See *In re Moore*, 439 F.2d 1232, 1235, 169 USPQ 236, 238 (CCPA 1971).

The Examiner has not addressed the disclosure throughout the Applicant's specification directed toward "an offset web" and explained why, in view of that disclosure, one of ordinary skill in the art would not have reasonably understood the structural element the web is offset with.

Consequently, the Examiner has not carried the burden of establishing a prima facie case of indefiniteness.

CLAIM REJECTIONS – 35 USC §102/103

Claims 1, 5, 13, 17, and 19 stand rejected under 35 USC 102(b) as being anticipated by or, in the alternative, under 35 USC 103(a) as being obvious over *Schartz* (US Patent No. 4,522,570).

Claim 1 is directed to a tube component in a pump having a rotary portion which compels the movement of a fluid by peristaltic compression of resilient tubing containing the fluid and recites the following:

1. a plurality of adjacent resilient tubes; and
2. an offset web interconnecting the adjacent resilient tubes, wherein the resilient tubes and the offset web are integrally formed, and each of the resilient tubes has a cross-sectional centerline occurring in a common plane and the offset web only interconnects the resilient tubes in an area outside of the common plane.

Rejecting Claim 1, the Examiner makes the following assertion:

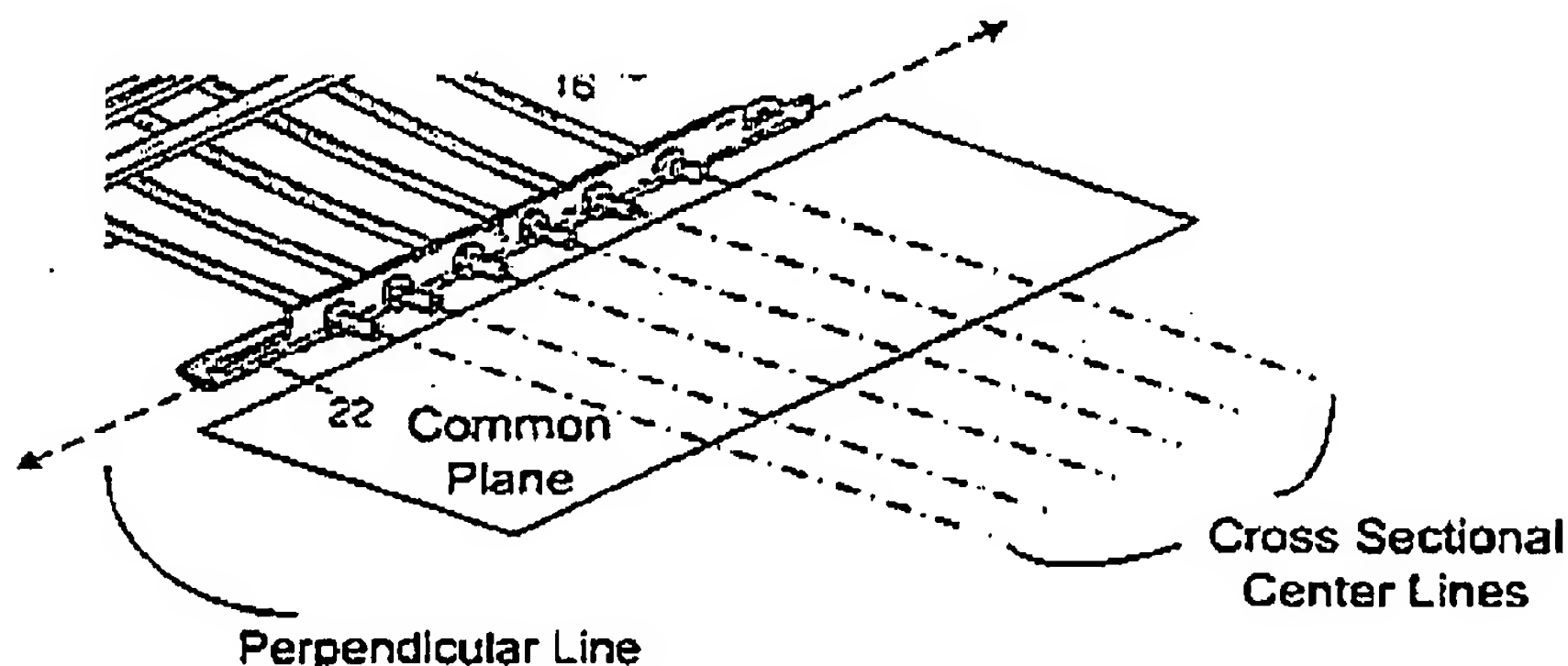
With respect to claims 1 and 19, Shartz teaches a pump having a rotary portion 16 which compels the movement of a fluid by peristaltic compression of resilient tubing 19 containing the fluid, a tube component comprising a plurality of adjacent resilient tubes; a web 22 interconnecting the adjacent resilient tubes, the resilient tubes has a cross-sectional centerline occurring in a common plane, and the web interconnects the resilient tubes in an area outside of the common plane, the rotary portion of the pump includes a rotary area of pump operation, and the web is outside the rotary area of pump operation.

It is very important to note that the Examiner has ignored the term "only" as it is used in Claim 1. Specifically, Claim 1 recites that the offset web only interconnects the resilient tubes in an area outside of the common plane. The Examiner simply equates Shartz' output rack (22) with the offset web recited in Claim 1 and asserts that Shartz' "web interconnects the resilient tubes in an area outside of the common plane."

The Examiner's improper omission of the term "only" alters the meaning of Claim 1 as can be seen in the partial view of Shartz, Fig. 6

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shown below. Cross sectional center lines have been added to extend out of each hose. Those cross sectional center lines occupy a common plane as illustrated. A line, perpendicular to the cross sectional lines also occupies the common plane and passes through Shartz' output rack (22).



This illustrates that at least a portion of Shartz' output rack (22) interconnects Shartz' hoses within the common plane. Consequently, Shartz fails to teach or suggest an offset web interconnecting the adjacent resilient tubes, wherein the resilient tubes and the offset web are integrally formed, and each of the resilient tubes has a cross-sectional centerline occurring in a common plane and the offset web only interconnects the resilient tubes in an area outside of the common plane.

For at least this reasons, Claim 1 is patentable over Shartz as are Claims 5 and 19 which depend from Claim 1.

Claim 13 is directed to a method of assembling a pump having a rotary portion which compels the movement of a fluid by peristaltic compression of resilient tubing containing the fluid and recites the following:

1. providing a plurality of adjacent resilient tubes; and

2. interconnecting the adjacent resilient tubes with an offset web, the resilient tubes and offset web being integrally formed, and wherein each of the resilient tubes has a cross-sectional centerline occurring in a common plane, the rotary portion of the pump includes a rotary area of pump operation, and the resilient tubes are only interconnected with the offset web in an area outside of the common plane and in an area outside the rotary area of pump operation.

With respect to Claim 1 above, it was clarified that Shartz does not teach or suggest an offset web that only interconnects the resilient tubes in an area outside of a common plane that is occupied by the cross sectional centerlines of those resilient tubes. Instead, Shartz' output rack (22) clearly interconnects Shartz' hoses within the common plane. For the same reasons, Shartz also fails to teach or suggest a method that includes interconnecting the adjacent resilient tubes with an offset web, the resilient tubes and offset web being integrally formed, and wherein each of the resilient tubes has a cross-sectional centerline occurring in a common plane, the rotary portion of the pump includes a rotary area of pump operation, and the resilient tubes are only interconnected with the offset web in an area outside of the common plane and in an area outside the rotary area of pump operation.

For at least this reason, Claim 13 is patentable over Shartz as is Claim 17 which depends from Claim 13.

CLAIM REJECTIONS – 35 USC §102/103

Claims 1 and 13 stand rejected under 35 USC 102(b) as being anticipated by or, in the alternative, under 35 USC 103(a) as being obvious over Ferrari (US Patent No. 2,865,303).

Claim 1 is directed to a tube component in a pump having a rotary portion which compels the movement of a fluid by peristaltic compression of resilient tubing containing the fluid and recites the following:

1. a plurality of adjacent resilient tubes; and
2. an offset web interconnecting the adjacent resilient tubes, wherein the resilient tubes and the offset web are integrally formed, and each of the resilient tubes has a cross-sectional centerline occurring in a common plane and the offset web only interconnects the resilient tubes in an area outside of the common plane.

Rejecting Claim 1, the Examiner makes the following assertion:

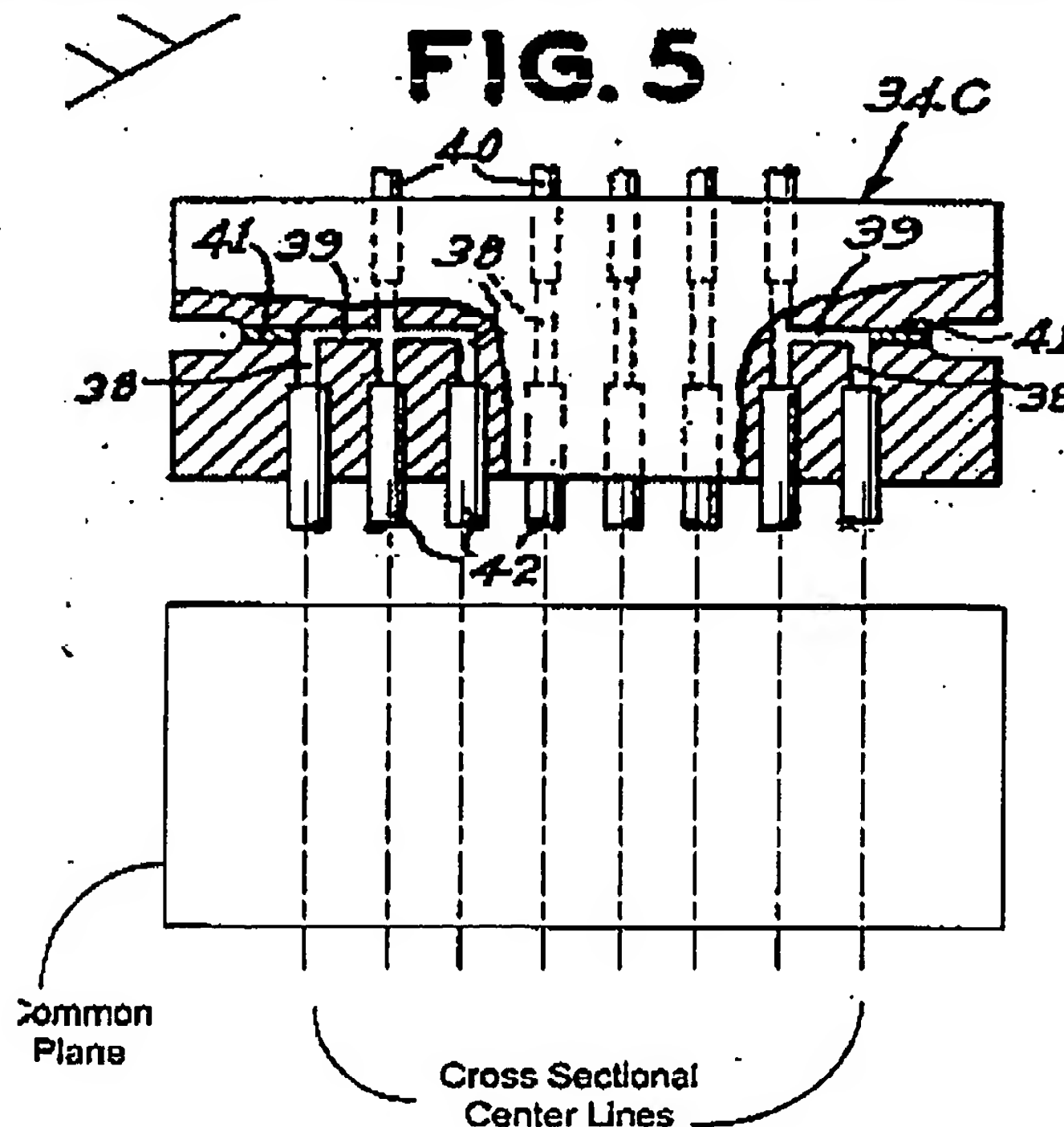
Ferrari teaches a pump having a rotary portion 120 which compels the movement of a fluid by peristaltic compression of resilient tubing (44, 40, 42) containing the fluid, a tube component comprising a plurality of adjacent resilient tubes; a web 34C interconnecting the adjacent resilient tubes, the resilient tubes has a cross-sectional centerline occurring in a common plane, and the web interconnects the resilient tubes in an area outside of the common plane, the rotary portion of the pump includes a rotary area of pump operation, and the web is outside the rotary area of pump operation. See particularly Figures 2, 5 above and column 4 lines 59-71 of Ferrari.

It is very important to note that the Examiner has ignored the term "only" as it is used in Claim 1. Specifically, Claim 1 recites that the offset web

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only interconnects the resilient tubes in an area outside of the common plane. The Examiner simply equates Ferrari's modified junction block (34C) with the offset web recited in Claim 1 and asserts that Ferrari's "web interconnects the resilient tubes in an area outside of the common plane."

The Examiner's improper omission of the term "only" alters the meaning of Claim 1 as can be seen in the reproduction of Ferrari, Fig. 5 shown below. Cross sectional center lines have been added to extend out of the each tube/duct that passes through the junction block (34C). Those cross sectional center lines occupy a common plane as illustrated. Because the tubes/ducts pass through the junction block, at least a portion of the junction block also occupies the common plane.



This illustrates that at least a portion of Ferrari's junction block (34C) interconnects Ferrari's tubes/ducts within the common plane. Consequently, Shartz fails to teach or suggest an offset web interconnecting the adjacent resilient tubes, wherein the resilient tubes and the offset web are integrally formed, and each of the resilient tubes has a cross-sectional centerline occurring in a common plane and the offset web only interconnects the resilient tubes in an area outside of the common plane.

For at least this reasons, Claim 1 is patentable over Ferrari as are Claims 5 and 19 which depend from Claim 1.

Claim 13 is directed to a method of assembling a pump having a rotary portion which compels the movement of a fluid by peristaltic compression of resilient tubing containing the fluid and recites the following:

1. providing a plurality of adjacent resilient tubes; and
2. interconnecting the adjacent resilient tubes with an offset web, the resilient tubes and offset web being integrally formed, and wherein each of the resilient tubes has a cross-sectional centerline occurring in a common plane, the rotary portion of the pump includes a rotary area of pump operation, and the resilient tubes are only interconnected with the offset web in an area outside of the common plane and in an area outside the rotary area of pump operation.

With respect to Claim 1 above, it was clarified that Ferrari does not teach or suggest an offset web that only interconnects the resilient tubes in an area outside of a common plane that is occupied by the cross sectional centerlines of those resilient tubes. Instead, Ferrari's junction block (34C) clearly interconnects Ferrari's tubes/ducts within the common


plane. For the same reasons, Ferrari also fails to teach or suggest a method that includes interconnecting the adjacent resilient tubes with an offset web, the resilient tubes and offset web being integrally formed, and wherein each of the resilient tubes has a cross-sectional centerline occurring in a common plane, the rotary portion of the pump includes a rotary area of pump operation, and the resilient tubes are only interconnected with the offset web in an area outside of the common plane and in an area outside the rotary area of pump operation.

For at least this reason, Claim 13 is patentable over Ferrari as is Claim 17 which depends from Claim 13.

Conclusion

In view of the foregoing remarks and amendments, Applicant respectfully submits that Claims 1, 5, 13, 17, and 19 define allowable subject matter. The Examiner is requested to indicate the allowability of all claims in the application and to pass the application to issue.

Respectfully submitted,
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